

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

DECISION and ORDER

10-CR-6127 CJS

DARREN A. BROOKS,

Defendant.

This case was referred by order of the undersigned, dated June 22, 2010, to Magistrate Judge Jonathan W. Feldman, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). Defendant filed an omnibus pretrial motion (# 19) seeking, *inter alia*, an order suppressing tangible evidence seized from 515 College Avenue, Elmira, New York and an order declaring that the Fair Sentencing Act's modification of the threshold quantities of cocaine base be applied to the subject indictment. On February 4, 2011, Magistrate Judge Feldman filed a Report and Recommendation ("R&R") (#27) recommending that the Court deny defendant's motion to suppress tangible evidence, as well as his application to apply the Fair Sentencing Act to the subject indictment. Defendant timely filed objections (# 30) to the R&R on March 28, 2011.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the R&R to which objections have been made. Upon a *de novo*

review of the R& R and after considering the defendant's objections, the Court accepts the proposed findings and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Feldman's R&R (#27), the defendant's motion (#19) to suppress tangible evidence and his application to apply the Fair Sentencing Act to the subject indictment are denied.

IT IS SO ORDERED.

Dated: April 27, 2011
Rochester, New York

ENTER:

/s/ Charles J. Siragusa

CHARLES J. SIRAGUSA
United States District Judge